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OFFICE OF PETITIONS

In re Application of
Kurt Benzing et al.
Application No. 10/656,105
Filed: September 8, 2003
Attorney Docket No. 1900P55321WOUS

ON PETITION

This is a decision on the "Petition For Acceptance of Application Papers", filed November 1, 2004, requesting in effect, that the "Notice of Omitted Item(s)" mailed October 15, 2004, in the above-identified application be withdrawn and that the petition fee be refunded. The petition is treated under 37 CFR 1.182.

The application was filed on September 8, 2003. However, on October 15, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date; however, Pages 3-12 of the specification appeared to have been omitted.

In response, the present petition was filed. The petition argues, in effect, that no pages are missing. Instead, the petition indicates that the pages of specification filed on September 8, 2003, were simply misnumbered.

Petitioner's arguments are well-taken. It is obvious from the petition that no pages were actually missing on September 8, 2003. Rather, the specification was misnumbered and no pages were actually omitted.

In view of the above, the request to accord the application a filing date of September 8, 2003, is **GRANTED**.

As a result of applicant's filing error, however, the "Notice of Omitted Item(s)" mailed October 15, 2004 was correct in stating that Pages 3-12 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn and thus the petition fee will not be refunded.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 8, 2003 and using the properly numbered

specification submitted on petition November 1, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney in the Office of Petitions at (571) 272-3212.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions